

**THE OFFICE OF REGULATORY STAFF  
SURREBUTTAL TESTIMONY & EXHIBITS  
OF**

**WILLIE J. MORGAN, P.E.**

**JANUARY 12, 2018**



**DOCKET NO. 2017-228-S**

**Application of Palmetto Utilities, Incorporated for  
Adjustment of Rates and Charges for Customers in the  
Palmetto Utilities and Palmetto of Richland County Service  
Areas**

**SURREBUTTAL TESTIMONY AND EXHIBITS OF WILLIE J. MORGAN, P.E.**

**ON BEHALF OF**

**THE SOUTH CAROLINA OFFICE OF REGULATORY STAFF**

**DOCKET NO. 2017-228-S**

**IN RE: APPLICATION OF PALMETTO UTILITIES, INCORPORATED FOR  
ADJUSTMENT OF RATES AND CHARGES FOR CUSTOMERS IN THE  
PALMETTO UTILITIES AND PALMETTO OF RICHLAND COUNTY SERVICE  
AREAS**

**Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND OCCUPATION.**

**A.** My name is Willie J. Morgan, and my business address is 1401 Main Street, Suite 900, Columbia, South Carolina 29201. I am employed by the South Carolina Office of Regulatory Staff (“ORS”) as the Deputy Director for Utility Rates.

**Q. DID YOU FILE DIRECT TESTIMONY AND AN EXHIBIT RELATED TO THIS PROCEEDING?**

**A.** Yes. I filed direct testimony and one exhibit with the Commission on December 14, 2017.

**Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

**A.** The purpose of my surrebuttal testimony is to respond to the rebuttal testimony filed by Palmetto Utilities, Inc. (“PUI”) witness Mr. Mark Daday on January 5, 2018. Specifically, I will focus on the following areas:

1) PUI’s compliance with the S.C. Code Ann. Regs 103-553 (2012);

2) PUI's estimate for annualized sludge disposal costs;

3) PUI's adjustment for deferred expenses for City Wastewater Treatment; and

4) PUI's proposal for extraordinary retirement allowance of \$410,347.

**Q. HAS ORS RECEIVED AND REVIEWED ALL OF THE DOCUMENTS REQUIRED IN S.C. CODE ANN. REGS. 103-553 FOR PUI'S UTILITY PLANT ADDITIONS.**

**A.** Yes. PUI provided ORS with the final approval documentation from the South Carolina Department of Health and Environmental Control ("DHEC") that each utility plant was installed according to plans and specifications as required by S.C. Code Ann. Regs 103-553 (2012).

**Q. PLEASE EXPLAIN ORS'S ADJUSTMENT FOR SLUDGE DISPOSAL.**

**A.** PUI's Spears Creek Regional Wastewater Treatment Plant ("Spears Creek WWTP") upgrade began operations on or about October 4, 2017. As of the date of ORS's direct testimony, sludge disposal at the upgraded Spears Creek WWTP had occurred one time and one expense invoice for sludge disposal had been provided to ORS by PUI. Due to the limited operations of the upgraded Spears Creek WWTP, ORS utilized the actual sludge generation and disposal expense incurred by PUI of \$250,393 for the most current twelve months ending October 31, 2017. See Surrebuttal Exhibit WJM-1.

**Q. DOES ORS AGREE WITH THE CONSERVATIVE ESTIMATE PROPOSED BY PUI FOR SLUDGE DISPOSAL COSTS?**

**A.** In rebuttal testimony, PUI indicates its proposed adjustment of \$133,274 is a conservative estimate of the actual cost. ORS utilized the most current twelve months of

1 sludge generation and disposal expense cost ending October 31, 2017 based on known and  
2 measurable vendor invoices for sludge management as provided by PUI. It is unknown if  
3 sludge removal and disposal will occur on a monthly basis at the rate proposed by PUI and  
4 ORS cannot calculate with precision the amount of sludge the newly upgraded Spears  
5 Creek WWTP will generate. ORS cannot verify that the estimate proposed by PUI  
6 accurately reflects the costs that may be incurred by the newly upgraded Spears Creek  
7 WWTP.

8 **Q. HOW DID ORS CALCULATE THE BASE WASTEWATER TREATMENT**  
9 **COSTS ASSOCIATED WITH THE CITY OF COLUMBIA?**

10 **A.** ORS reviewed the filing made by Palmetto of Richland County LLC (“PRC”) in its  
11 application for the acquisition of customers from the City of Columbia (Docket No. 2012-  
12 273-S). This application requested the establishment of PRC as a regulated utility by the  
13 Commission. The application filed by PRC and the order issued by the Commission (Order  
14 No. 2012-960) established the number of residential equivalent customers being  
15 transferred from the City of Columbia to PRC as 11,370. See Surrebuttal Exhibit WJM-2.  
16 The agreement for wastewater treatment and disposal between the City of Columbia and  
17 PRC identifies the billing for wastewater treatment services is to be based on the number  
18 of service connections within the service area in existence on the effective date of the Asset  
19 Purchase Agreement. Therefore, ORS calculated the amount to be deferred for the  
20 increases in the City of Columbia wastewater treatment charges in accordance with the  
21 number of customers transferred from the City of Columbia to PRC. Mr. Daday indicates  
22 in his rebuttal testimony that the City billed PRC \$77,271.50 per month and that equates to

“approximately 10,303 customers.” ORS’s review of the PUI customer records do not indicate the number of customers served in the PRC service territory equals 10,303. Therefore, ORS relied upon known and measurable documentation to calculate the amount of the deferral associated with the City of Columbia wastewater treatment expense.

**Q. DID ORS PROPOSE EXTRAORDINARY RETIREMENT ALLOWANCE ASSOCIATED WITH THE RAPID INFILTRATION BASINS (“RIBS”)?**

**A.** No. PUI indicated the RIBS were removed from service on or about October 4, 2017. ORS removed operating and maintenance expense related to the RIBS which total \$140,073. In its Application, PUI did not request the Commission approve extraordinary retirement related to plant assets associated with the RIBS.

**Q. EXPLAIN ORS’S POSITION RELATED TO “EXTRAORDINARY RETIREMENT FOR THE CRABAPPLE LANE PROJECT AND ADJOINING LAND ACQUISITION.**

**A.** ORS did not consider extraordinary retirement for the Crabapple Lane project and the adjoining land acquisition located adjacent to the RIBS. As noted in Mr. Daday’s rebuttal testimony, the work performed was in response to complaints by Kershaw County to the South Carolina Department of Health and Environmental Control (“DHEC”). Subsequent to the complaints, DHEC issued a Notice of Alleged Violation/Notice of Compliance Conference and PUI entered into a Consent Agreement with DHEC. See Surrebuttal Exhibit WJM-3. It is ORS’s position that the land acquisition and Crabapple Lane project were completed in an effort to mitigate and resolve the complaints and comply with the Consent Agreement. ORS did not include either the project or the land acquisition

for rate recovery. It should be recognized that land acquired by a utility can be sold and would not be subject to an allowance for extraordinary retirement.

**Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

**A.** Yes.

**Palmetto Utilities, Inc.  
Docket No. 2017-228-S  
Sludge Removal Expense**

**Surrebuttal Exhibit WJM-1**

**Palmetto Utilities, Inc. Docket No. 2017-228-S  
Account 711 Sludge Removal Expense Pro forma General Ledger Detail  
For the Test Year Ended March 31, 2017**

Journal Entry	TRX Date	Debit (Credit) Amount	Description	Originating Master ID	Originating Master Name	Originating Document Number
128879	10/31/2016	\$ 523.66	November 2016 Service	BILL	Waste Mgmt (800-0008239-0080-8)	4228235-0080-2
10001299	11/30/2016	\$ (4,068.25)	11-2016 Palmetto Sludge Exp			
10001401	11/30/2016	\$ 10,508.32	Service 11/01-11/15/2016	WASTE003	Waste Mgmt (800-0021261-0080-5)	4229630-0080-3
10001440	12/2/2016	\$ 280.74	December 2016 Service	WASTE001	Waste Mgmt (7-12256-52000)	4232570-0080-6
10001440	12/2/2016	\$ (227.91)	Credit damaged container	WASTE001	Waste Mgmt (7-12256-52000)	4232570-0080-6
10001852	12/14/2016	\$ 11,189.55	Service 11.16.16 - 11.30.16	WASTE003	Waste Mgmt (10-63487-83002)	4233495-0080-5
10002246	12/28/2016	\$ 10,933.00	Service 12.01.16 - 12.15.16	WASTE003	Waste Mgmt (10-63487-83002)	4233866-0080-7
10002473	12/31/2016	\$ 11,235.80	Service 12.16.16 - 12.31.16	WASTE003	Waste Mgmt (10-63487-83002)	4236156-0080-0
10002864	12/31/2016	\$ (4,068.25)	12-2016 Ni SC Sludge Exp			
10002456	1/5/2017	\$ 280.74	January 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4235215-0080-5
10003150	1/19/2017	\$ 11,308.31	Srvc 01.01.17 - 01.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4236507-0080-4
10003267	1/26/2017	\$ 280.74	February 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4237858-0080-0
10003585	1/31/2017	\$ (4,068.25)	01-2017 Ni SC Sludge Exp			
10003871	1/31/2017	\$ 17,739.62	Srvc 01.16.17 - 01.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4238825-0080-8
10004349	2/20/2017	\$ 13,595.38	Srvc 02.01.17 - 02.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4239181-0080-5
10004558	2/27/2017	\$ 280.74	March 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4240541-0080-7
10004511	2/28/2017	\$ (4,068.25)	02-2017 Ni SC Sludge Exp			
10004875	2/28/2017	\$ 13,344.39	Service 02.16.17-02.28.17	WASTE003	Waste Mgmt (10-63487-83002)	4241509-0080-3
10005261	3/20/2017	\$ 11,754.79	Srvc 03.01.17 - 03.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4241864-0080-2
10005713	3/27/2017	\$ 280.74	April 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4243243-0080-7
10005862	3/31/2017	\$ (4,068.25)	03-2017 Ni SC Sludge Exp			
10006192	3/31/2017	\$ 13,189.69	Srvc 03.16.17 - 03.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4244324-0080-4
10006591	4/24/2017	\$ 10,873.45	Srvc 04.01.17 - 04.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4244678-0080-3
10006881	4/30/2017	\$ (4,068.25)	04-2017 Ni SC Sludge Exp			
10006644	5/1/2017	\$ 280.74	May 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4246030-0080-5
10007244	5/9/2017	\$ 10,138.96	Svc 4/16/17-4/30/17	WASTE003	Waste Mgmt (10-63487-83002)	4247341-0080-5
10007587	5/23/2017	\$ 10,276.06	Svc 05/01/17-05/15/17	WASTE003	Waste Mgmt (10-63487-83002)	4247849-0080-7
10007910	5/31/2017	\$ (4,068.25)	05-2017 Ni SC Sludge Exp			
10007874	6/1/2017	\$ 319.15	June 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4249971-0080-7
10008192	6/5/2017	\$ 367.19	June 2017 Service	WASTE009	Waste Mgmt (18-35051-73001)	4251242-0080-8
10008195	6/5/2017	\$ 17,091.14	Svc 05.16.17-05.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4254422-0080-3
10008542	6/20/2017	\$ 13,357.12	Svc 06/01/17-06/15/17	WASTE003	Waste Mgmt (10-63487-83002)	4255012-0080-1
10008336	6/30/2017	\$ (4,068.25)	06-2017 Ni SC Sludge Exp			
10008912	6/30/2017	\$ 11,437.20	Svc 06.16.17-06.30.17	WASTE003	Waste Mgmt (10-63487-83002)	4257329-0080-7
10008905	7/3/2017	\$ 140.33	July 2017 Service	WASTE009	Waste Mgmt (18-35051-73001)	4256726-0080-5
10008906	7/3/2017	\$ 319.15	July 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4255474-0080-3
10009448	7/18/2017	\$ 8,482.69	Svc 07.01.17-07.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4257716-0080-5
10009476	7/31/2017	\$ (4,068.25)	07-2017 Ni SC Sludge Exp			
10009944	8/1/2017	\$ 319.15	August 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4258161-0080-3
10009945	8/1/2017	\$ 140.33	August 2017 Service	WASTE009	Waste Mgmt (18-35051-73001)	4259400-0080-4
10010280	8/7/2017	\$ 11,064.58	Svc 07.16.17-07.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4260424-0080-1
10010584	8/17/2017	\$ 10,730.93	Svc 08.01.17-08.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4260764-0080-0
10010679	8/31/2017	\$ (4,068.25)	08-2017 Ni SC Sludge Exp			
10011051	8/31/2017	\$ 12,287.31	Svc 08.16.17-08.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4263079-0080-0
10010853	9/1/2017	\$ 319.15	September 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4261251-0080-7
10010854	9/1/2017	\$ 140.33	September 2017 Service	WASTE009	Waste Mgmt (18-35051-73001)	4262476-0080-9
10010855	9/1/2017	\$ 273.68	September 2017 Service	WASTE011	Waste Mgmt (18-80883-23002)	4262557-0080-6
10011429	9/20/2017	\$ 15,589.77	Svc 09.01.17-09.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4263500-0080-5
10011441	9/30/2017	\$ (4,068.25)	09-2017 Ni SC Sludge Exp			
10011833	9/30/2017	\$ 5,836.80	Svc 09.16.17-09.30.17	WASTE003	Waste Mgmt (10-63487-83002)	4267458-0080-2
10011681	10/2/2017	\$ 140.33	October 2017 Service	WASTE009	Waste Mgmt (18-35051-73001)	4266822-0080-0
10011682	10/2/2017	\$ 319.15	October 2017 Service	WASTE001	Waste Mgmt (7-12256-52000)	4265612-0080-6
10011683	10/2/2017	\$ 140.33	October 2017 Service	WASTE011	Waste Mgmt (18-80883-23002)	4266902-0080-0
10012322	10/19/2017	\$ 15,754.61	Svc 10.01.17-10.15.17	WASTE003	Waste Mgmt (10-63487-83002)	4267887-0080-2
10012499	10/31/2017	\$ (4,068.25)	10-2017 Ni SC Sludge Exp			
10012859	10/31/2017	\$ 16,574.14	Svc 10.16.17-10.31.17	WASTE003	Waste Mgmt (10-63487-83002)	4270198-0080-9

\$ 250,393.07	Actual Sludge Removal Expense from 11/1/16 - 10/31/17
\$ (248,779.00)	Per Books Sludge Removal Expense
<u>\$ 1,614.07</u>	Total Sludge Expense Adjustment

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2012-273-S - ORDER NO. 2012-960  
DECEMBER 21, 2012

IN RE:	Application of Palmetto of Richland County,	)	ORDER APPROVING
	LLC for a Certificate That the Acquisition of	)	ESTABLISHMENT OF
	the City of Columbia Sewer Collection	)	RATES, CHARGES AND
	System Serving Portions of Unincorporated	)	SERVICE TERRITORY
	Richland County is in the Public Interest and	)	
	for Establishment of a Service Area and	)	
	Rates and Charges	)	

This matter comes before the Public Service Commission of South Carolina ("Commission") on an Application by Palmetto of Richland County, LLC ("PRC" or "Applicant") for a certificate that its proposed acquisition of a sewer collection system, owned and operated by the City of Columbia ("City") and serving an unincorporated area of Richland County, is in the public interest, and for the establishment of a service area and rates and charges for service by PRC to customers now served by the City. The Applicant seeks the issuance of the requested certificate pursuant to 26 S.C. Code Ann. Regs. 103-504 (Supp. 2011) and the establishment of the proposed rates and charges and service territory pursuant to 26 S.C. Code Ann. Regs. 103-512.4.B (Supp. 2011). In addition, PRC requests pursuant to 26 S.C. Code Ann. Regs. 103-803 (Supp. 2011), that compliance with 26 S.C. Code Ann. Regs. 103-512.4.B, subsections 3-5, 7-9 and 11-12 be waived in whole or part and that any requirement for a hearing be waived in view of the fact that the Office of Regulatory Staff does not oppose the Application and no intervention exists.



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Written notice of the Application was given by the Applicant to the South Carolina Department of Health and Environmental Control, East Richland County Public Service District, and Richland County, by mail on July 6, 2012, in accordance with 26 S.C. Code Ann. Regs. 103-504. The Notice of this matter issued by the Commission was duly published in *The State* newspaper on July 28, 2012, and copies thereof were mailed by the Applicant to Interim County Administrator for Richland County on July 25, 2012, and to the City's affected customers on July 27, 2012, in accordance with the Commission's regulations and instructions. The Office of Regulatory Staff ("ORS") was automatically made a party of record by virtue of S.C. Code Ann. § 58-4-10(B) (Supp. 2011). A single petition to intervene was filed by Mr. James E. Lawrence on August 20, 2012. No letters of protest in this docket were received by the Commission.

On August 29, 2012, PRC filed and served an Objection to Mr. Lawrence's Petition to Intervene and a Motion for Appointment of a Hearing Officer and a Prehearing Conference. Therein, PRC requested that the Commission hold in abeyance action on PRC's Objection until such time as a prehearing conference had been conducted. On September 26, 2012, the Commission issued Order No. 2012-731 in this docket, appointing B. Randall Dong, Esquire, as the Hearing Officer and directing that he conduct a prehearing conference with respect to Mr. Lawrence's petition to intervene in this matter. On September 27, 2012, Hearing Officer Dong conducted the prehearing conference ordered by the Commission, which was attended by counsel for the Applicant, counsel for ORS, and Mr. Lawrence. On October 13, 2012, Mr. Lawrence filed with the Commission a notice stating that he withdrew his intervention. On October 17, 2012,

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ORS notified the Commission by letter from its counsel in the matter that ORS supported the grant of relief sought by PRC in the Application.

The Application states that the City's sewer collection system sought to be acquired provides service to 11,370 customers and that the service area sought to be established by PRC is situated in an unincorporated area of Richland County located generally east of Highway 555, south of Rimers Pond Road, west of Hardscrabble Road, and north of Two Notch Road and Brickyard Road. The Application further states that the proposed service area is not served by any other public utility providing sewer service or any other governmental utility, although portions of the proposed service area are within the current service area of another jurisdictional utility, Palmetto Utilities, Inc. ("PUI"). Attached to the Application is a written consent of PUI to the assignment to Applicant of the affected portions of PUI's current service area, which is depicted on the service area map attached to the Application. A letter of credit in the amount of \$350,000 was posted by Applicant with ORS to satisfy the performance bond requirements of S.C. Code Ann. § 58-5-720 (Supp. 2011) and 26 S.C. Code Ann. Regs. 103-512.4.B(10). The Applicant seeks approval of a rate schedule which, consistent with the terms and conditions of a June 6, 2012, Asset Purchase Agreement between PRC and the City also submitted as an exhibit to the Application, provides for customers to continue being charged the same rates as are presently charged by the City, including the rates and charges for monthly sewer service and sewer service connections (i.e., taps). Additional charges which are consistent with the rules and regulations of the Commission or charges



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approved by the Commission for PUI, are also included in the proposed PRC rate schedule attached as an exhibit to the Application.

PRC is a limited liability company, duly organized and existing under the laws of the State of Delaware, and is authorized to do business in the State of South Carolina. According to the Application, NiAmerica Capital Management, LLC (“Ni America”), a Delaware limited liability company, indirectly owns 100% of PRC. Thus, PRC is under common ownership and control with two other jurisdictional sewer utilities, namely PUI and Palmetto Wastewater Reclamation, LLC d/b/a Alpine Utilities and Woodland Utilities (“PWR”). The Commission takes notice of the fact that PUI serves approximately 15,800 customer connections and that PWR serves approximately 9,331 customer connections in the Midlands region of South Carolina.

In support of the Application, PRC states that the acquisition of the City’s collection system is in the public interest as the wastewater flow from the customers currently served by the City that is transported to the City’s Metro Wastewater Treatment Plant (“WWTP”) located on the Congaree River will eventually be transported to the Spears Creek Regional WWTP which is situated in the Wateree River drainage basin.<sup>1</sup> Thus, the Applicant asserts, wastewater generated by the customers in the proposed service area will be treated and disposed of in the same drainage basin, which is consistent with watershed based approach to water quality management planning established by the Central Midlands Council of Governments under provisions of the

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<sup>1</sup> PRC’s Application states that the Asset Purchase Agreement provides for the City to continue accepting wastewater flow from the proposed service area for treatment at the Metro WWTP until such time as a forcemain interconnecting the collection system in the proposed service area with the Spears Creek WWTP can be constructed. Prior to any such interconnection, PUI will seek establishment of a bulk rate to charge PRC in accordance with 26 S.C. Code Ann. Regs. 103-541 (Supp. 2011).

Federal Clean Water Act. PRC further asserts that the public interest is served because the City's customers, all of whom are situated outside the City's corporate limits, only have the right to purchase wastewater service as a matter of contract and have no recourse with respect to the rates or service they are currently provided. *See Sloan v. Conway*, 347 S.C. 324, 555 S.E.2d 684 (2001). By contrast, PRC asserts, these customers will benefit from the rights accorded customers of public utilities, recourse to this Commission to enforce such rights, and the representation of their interests as part of the ORS's representation of the public interest under S.C. Code Ann. § 58-4-10(B) (1-3) (Supp. 2011). Finally, PRC asserts that the fact that these customers will continue to be charged for monthly service at the City's present rates is consistent with the public interest.

As noted above, the ORS Staff has reviewed the above-docketed matter and has indicated its support of the Application.

#### FINDINGS AND CONCLUSIONS:

The Commission finds and concludes that:

1. The City operates a wastewater collection system in an unincorporated area of Richland County which serves the aforementioned 11,370 customers.
2. PRC will acquire the City's wastewater collection system pursuant to the terms and conditions of the Asset Purchase Agreement between them that has been submitted with PRC's Application in this matter.
3. PRC will begin operating the City's wastewater collection system after the closing of the acquisition and, initially, continue to transport flow from the customers



situated in the proposed service area to the City's Metro WWTP. It is anticipated that such flow will eventually be transported by PRC to the Spears Creek Regional WWTP for treatment pursuant to the terms of a bulk treatment agreement between PRC and PUI, same to be submitted to the Commission for approval.

4. PRC will continue to charge the affected customers the same monthly service rates and connection charges now imposed by the City unless and until such time as PRC receives approval from the Commission for an adjustment of such charges in a proceeding brought under S.C. Code Ann. § 58-5-240 (Supp. 2011).

5. The acquisition proposed in this Docket meets the requirements of 26 S.C. Code Ann. Regs. 103-504 (Supp. 2011) as it is in the public interest.

6. Compliance with the requirements of 26 S.C. Code Ann. Regs. 103-512.B, subsections 3-5, 7-9 and 11-12 by PRC is unnecessary since the City's wastewater collection system proposed to be acquired by PRC already exists and is in operation and the rates for monthly service and charges for connection to be imposed by PRC are, as a matter of contract between PRC and the City, the same as those currently charged by the City. Accordingly, a waiver of these requirements of Commission rules and regulations is appropriate and not contrary to the public interest. See 26 S.C. Code Ann. Regs. 103-501 (Supp. 2011).

7. Based on the information provided by PRC and given that there is no opposition to the Application, we find that a waiver of any hearing on the public interest component of the proposed acquisition of the wastewater collection system in this matter is appropriate.

IT IS THEREFORE ORDERED THAT:

1. The waivers from compliance with Commission Rules and Regulations set forth in the Application of Palmetto of Richland County, LLC herein are granted.
2. The Application of Palmetto of Richland County, LLC for a certificate that its acquisition of the City's wastewater collection system in the proposed service area is in the public interest and is therefore granted.
3. Palmetto of Richland County, LLC is authorized (a) to provide wastewater service as a public utility in the area described in the Application, and as set forth in map of the proposed service area submitted in this docket and filed with the Office of Regulatory Staff, and (b) to impose the rates and charges set forth in the Rate Schedule attached to this Order as Appendix A, from and as of the date upon which the transaction contemplated by its Asset Purchase Agreement with the City is closed.
4. Palmetto of Richland County, LLC shall inform the Commission and ORS in writing when the transaction with the City of Columbia approved herein has closed and, by way of separate letter, notify customers located in the approved service area of the date upon which their wastewater service shall commence to be provided by Palmetto of Richland County, LLC. Proof of mailing of such notice to customers shall be provided to the Commission and the Office of Regulatory Staff by Palmetto of Richland County, LLC.
5. Upon compliance with the requirements of paragraph 4 hereinabove, the portion of the service area approved for Palmetto of Richland County, LLC hereby shall no longer constitute a portion of the service area approved for Palmetto Utilities, Inc.

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The service area maps for Palmetto Utilities, Inc. on file with the Commission and the Office of Regulatory Staff shall be deemed modified accordingly.

6. The hearing in this matter previously set for December 13, 2012, is cancelled.

7. This Order shall remain in full force and effect until further order of the Commission.

BY ORDER OF THE COMMISSION:

  
David A. Wright, Chairman

ATTEST:

  
Randy Mitchell, Vice Chairman  
(SEAL)



EXHIBIT "F"

PALMETTO OF RICHLAND COUNTY LLC  
ONE SMALLWOOD CIRCLE  
COLUMBIA, SC 29223  
(803) 699-2422

**SEWER RATE SCHEDULE**

I. **MONTHLY CHARGES**

- a. Base Fee
  - i. For 5/8", 1.0" and 1.5" water meters \$10.20
  - ii. For 2" water meter \$16.32
  - iii. For 3" water meter \$32.64
  - iv. For 4" water meter \$51.00
  - v. For 6" water meter \$102.00
  - vi. For 8" water meter \$163.20
  - vii. For 10" water meter \$255.00
- b. Usage Fee \$4.93  
per 100 cubic  
feet of water  
used as  
measured by  
the City of  
Columbia

The Utility may, for the convenience of the owner, bill a tenant in a multi-unit building, consisting of four or more residential units which is served by a master sewer meter or a single sewer connection. However, in such cases all arrearages must be satisfied before service will be provided to a new tenant or before interrupted service will be restored. Failure of an owner to pay for services rendered to a tenant in these circumstances may result in service interruptions.

- c. In addition to the monthly sewer service charge, a surcharge of \$8.00 per month applies to customer with residences served by small sewage pump stations. A small sewage pump station is defined as one which serves 50 or fewer residences. When the number of residences actually served by a pump station exceeds 50, the surcharge shall be removed from the billings for residences served by that



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particular pump station. The surcharge shall apply only to sewage pump stations accepted for operation and maintenance on or after March 1, 1992.

2. NONRECURRING CHARGES

## a. Sewer service connection charge

- |      |                       |                    |
|------|-----------------------|--------------------|
| i.   | Installed by customer | \$300.00 per tap   |
| ii.  | Installed by Utility  | \$1,300.00 per tap |
| iii. | Taps Required:        |                    |

- (1) Single-family residence: One tap.
- (2) Single-family mobile home: One tap.
- (3) Multifamily unit: One tap per dwelling unit.
- (4) Separate laundry facilities on the same premises restricted to use by residents of the multifamily units only: One tap for every two washing machines using not more than 40 gallons per wash cycle. Larger machines shall require one tap each.
- (5) Hotels and motels: One tap plus one-half tap per room.
- (6) Day school: One tap for each 20 students and staff (average daily attendance).
- (7) Institutions (except nursing homes and hospitals) having sleeping facilities (i.e., penitentiary, reformatory, boarding school, full-time care facility): One tap for each four beds.
- (8) Contaminated groundwater: One tap for each 400 gallons, or portion thereof, or estimated average input per day into the sewer system.
- (9) All others: The number of taps shall be computed by the Utility in accordance with either the equivalencies to a single family residence (400 gallons per day) established by South Carolina Department of Health and Environmental Control (DHEC) regulation 61-67, Appendix A (as amended from time to time), or in accordance with the following alternative equivalencies, whichever is applicable:

Amusement Centers	per person (without food service)	5 GPD
	per seat (w/food service or restaurant)	40 GPD
Auditorium	per seat	5 GPD
Auto Dealerships, Sales Office	per employee	25 GPD
	Service Area per 1000 Sq. Ft.	200 GPD
	Car Wash Cars/Day	75 GPD
Auto Repair	per 1000 Sq. Ft.	200 GPD
	Add if Floor Drain Connects	1 Tap
Barber Shop	per chair	100 GPD
Beauty Shop	per chair	125 GPD
Car Wash (self service)	cars/day est. by supplier)	75 GPD
Church	Kitchen Addition	1 Tap

## PAGE 3 - EXHIBIT F

Deli - no cooking	70 GPD
Dentist - staff	15 GPD
-patients	5 GPD
Dog Run (home type)	1 Tap
Pad must be covered and above flood plain)	
Fitness Center (per member)	50 GPD

To the extent there is a conflict between these alternative tap fee equivalencies and the equivalencies established in DHEC regulation 61-67, Appendix A, these equivalencies shall apply.

## b. Plant Expansion Fee

In addition to the sewer service connection charge, a plant expansion fee must be paid at the time application for service is made, or an extended payment plan agreement must be executed.

- i. *Amount.* A sewer plant expansion fee shall be required to be paid prior to each sewer service connection to offset the cost of constructing increased capacity or capital expenditures to retain current system capacity in accordance with the capital improvements plan of the Utility. The costs of construction or expenditures to retain current system capacity shall include design and engineering costs, materials and labor to provide the intended plant capacity increase. The amount of the expansion fee for each connection shall be computed by multiplying the number of taps required for each application in accordance with section 2(a) times \$2,640.00.
- ii. *Extended payment.* At the time of application for the sewer service connection, an applicant may elect to pay the entire fee in full or pay the fee, or any portion thereof, in forty-eight (48) equal monthly installments with interest thereon at the rate of seven and one-half (7.5%) percent per annum. The monthly payments for the plant expansion fee shall be added to and collected with the monthly sewer bill for the property to be served commencing with the first sewer bill, and shall be collectible in the same manner as any other sewer charges by the Utility. In the event of the sale of the property being served or to be served by the sewer connection, the unpaid portion of the fee subject to extended payment in accordance with this section shall be immediately due and payable unless Applicant's purchaser assumes the extended payment obligation at closing. Until purchaser(s) apply for transfer of sewer service and or assume or pay in full the unpaid extended payment, no further sewer service shall be provided to such property.



PAGE 4 - EXHIBIT F

3. **NOTIFICATION, ACCOUNT SET-UP AND RECONNECTION CHARGES**

- a. Notification Fee: A fee of \$25.00 shall be charged each customer to whom the Utility mails the notice as required by Commission Rule R.103-535.1 prior to service being discontinued. This fee assesses a portion of the clerical and mailing costs of such notices to the customers creating that cost.
- b. Customer Account Charge: A fee of \$30.00 shall be charged as a one-time fee to defray the costs of initiating service.
- c. Reconnection charges: In addition to any other charges that may be due, a reconnection fee of \$250.00 shall be due prior to the Utility reconnecting service which has been disconnected for any reason set forth in Commission Rule R.103-532.4. Where an elder valve has been previously installed, a reconnection charge of thirty-five dollars (\$35.00) shall be due. The amount of the reconnection fee shall be in accordance with R.103-532.4 and shall be changed to conform with said rule as the rule is amended from time to time.

4. **BILLING CYCLE**

Recurring charges will be billed monthly in arrears. Nonrecurring charges will be billed and collected in advance of service being provided.

5. **LATE PAYMENT CHARGES**

Any balance unpaid within twenty-five (25) days of the billing date shall be assessed a late payment charge of one and one-half (1½%) percent.

6. **TOXIC AND PRETREATMENT EFFLUENT GUIDELINES**

The Utility will not accept or treat any substance or material that has been defined by the United States Environmental Protection Agency ("EPA") or the South Carolina Department of Health and Environmental Control ("DHEC") as a toxic pollutant, hazardous waste, or hazardous substance, including pollutants falling within the provisions of 40 CFR §§ 129.4 and 401.15. Additionally, pollutants or pollutant properties subject to 40 CFR §§ 403.5 and 403.6 are to be processed according to the pretreatment standards applicable to such pollutants or pollutant properties, and such standards constitute the Utility's minimum pretreatment standards. Any person or entity introducing any such prohibited or untreated materials into the Company's sewer system may have service interrupted without notice until such discharges cease, and shall be liable to the Utility for all damages and costs, including reasonable attorney's fees, incurred by the Utility as a result thereof.

PAGE 5 - EXHIBIT F

7. **REQUIREMENTS AND CHARGES PERTAINING TO SATELLITE SYSTEMS**

- a. Where there is connected to the Utility's system a satellite system, as defined in DHEC Regulation 61-9.505.8 or other pertinent law, rule or regulation, the owner or operator of such satellite system shall operate and maintain same in accordance with all applicable laws, rules or regulations.
- b. The owner or operator of a satellite system shall construct, maintain, and operate such satellite system in a manner that the prohibited or untreated materials referred to in Section 6 of this rate schedule (including but not limited to Fats, Oils, Sand or Grease), stormwater, and groundwater are not introduced into the Utility's system.
- c. The owner or operator of a satellite system shall provide Utility with access to such satellite system and the property upon which it is situated in accordance with the requirements of Commission Regulation 103-537.
- d. The owner or operator of a satellite system shall not less than annually inspect such satellite system and make such repairs, replacements, modifications, cleanings, or other undertakings necessary to meet the requirements of this Section 7 of the rate schedule. Such inspection shall be documented by written reports and video recordings of television inspections of lines and a copy of the inspection report received by the owner or operator of a satellite system, including video of the inspection, shall be provided to Utility. Should the owner or operator fail to undertake such inspection, Utility shall have the right to arrange for such inspection and to recover the cost of same, without mark-up, from the owner or operator of the satellite system.
- e. Should Utility determine that the owner or operator of a satellite system has failed to comply with the requirements of this Section 7 of the rate schedule, with the exception of the requirement that a satellite system be cleaned, the Utility may initiate disconnection of the satellite system in accordance with the Commission's regulations, said disconnection to endure until such time as said requirements are met and all charges, costs and expenses to which Utility is entitled are paid. With respect to the cleaning of a satellite system, the owner or operator of a satellite system shall have the option of cleaning same within five (5) business days after receiving written notice from Utility that an inspection reveals that a cleaning is required. Should the owner or operator of such a satellite system fail to have the necessary cleaning performed within that time frame, Utility may arrange for cleaning by a qualified contractor and the cost of same, without mark-up, may be billed to the owner or operator of said system.



PAGE 6 - EXHIBIT F

8. **CONSTRUCTION STANDARDS**

The Utility requires all construction to be performed in accordance with generally accepted engineering standards, at a minimum. The Utility from time to time may require that more stringent construction standards be followed in constructing parts of the system.

9. **EXTENSION OF UTILITY SERVICE LINES AND MAINS**

The Utility shall have no obligation at its expense to extend its utility service lines or mains in order to permit any customer to discharge acceptable wastewater into its sewer system. However, anyone or any entity which is willing to pay all costs associated with extending an appropriately sized and constructed main or utility service line from his/her/its premises to an appropriate connection point on the Utility's sewer system may receive service, subject to paying the appropriate fees and charges set forth in this rate schedule, complying with the guidelines and standards hereof, and, where appropriate, agreeing to pay an acceptable amount for multi-tap capacity.

10. **CONTRACTS FOR MULTI-TAP CAPACITY**

The Utility shall have no obligation to modify or expand its plant, other facilities or mains to treat the sewerage of any person or entity requesting multi-taps (a commitment for five or more taps) unless such person or entity first agrees to pay an acceptable amount to the Utility to defray all or a portion of the Utility's costs to make modifications or expansions thereto.

11. **CONTRACTS FOR SERVICE OUTSIDE AUTHORIZED UTILITY TERRITORY**

Certain customers served by the City of Columbia as of June 6, 2012, who are located outside the territory authorized to Utility by the Public Service Commission, may be served by Utility under a contract which incorporates all terms and conditions of the within rate schedule. Such customers shall be deemed customers of Utility for all regulatory purposes, including the determination of just and reasonable rates and charges. Utility is not required to file any such contracts with the Commission.



W. Marshall Taylor Jr., Acting Director

*Promoting and protecting the health of the public and the environment*

April 14, 2015

**USPS FIRST CLASS MAIL AND ELECTRONIC MAIL**

Mr. R. Stanley Jones  
President  
**Palmetto Utilities, Inc.**  
1710 Woodcreek Farms Road  
Elgin, S.C. 29045

Re: **NOTICE OF ALLEGED VIOLATION/  
NOTICE OF COMPLIANCE CONFERENCE**  
Palmetto Utilities/Spears Creek  
Land Application Discharge Permit ND0068411  
Kershaw County

Dear Mr. Jones:

Enclosed is a Notice of Alleged Violation/Notice of Compliance Conference relating to the matter of Nitrate being identified and reported above the Class GB Groundwater Standard in the vicinity of the permitted Rapid Infiltration Basins.

Department staff have held previous meetings with you to discuss this development and staff concerns. It has become necessary for Palmetto Utilities to enter into an agreement with the Department for the best path forward in achieving a remedy. Hopefully the date and time we scheduled for the conference is acceptable with you and those who need to be in attendance.

If you have any questions regarding this matter, please telephone me at (803) 898-4247, or I can be reached by email at: [kreckewr@dhec.sc.gov](mailto:kreckewr@dhec.sc.gov)

Sincerely,

William R. Krecker  
Project Manager  
Water Pollution Control Division/Enforcement  
Bureau of Water

Enclosure

cc: Jaime Teraoka, Water Pollution Control Division/Compliance Section  
Jeff deBessonnet, Director, Division of Water Facilities Permitting/BOW  
Chuck Gorman, Director, Division of Water Monitoring, Assess. & Protection  
Harry Mathis, Director, Midlands EQC Region Office - Columbia

**STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

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**IN RE: PALMETTO UTILITIES, INC.  
SPEARS CREEK WASTEWATER TREATMENT PLANT  
LAND APPLICATION DISCHARGE PERMIT ND0068411  
KERSHAW COUNTY**

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**NOTICE OF ALLEGED VIOLATION/NOTICE OF COMPLIANCE CONFERENCE**

**Palmetto Utilities, Inc. (Palmetto), is hereby notified** that a compliance conference has been scheduled for **Wednesday, April 29, 2015, at 10:00 a.m.** in the Sims Building, Room 4011 (Linton Room), 2600 Bull Street, Columbia, South Carolina. **All visitors must enter the building through the main lobby on the Bull Street side of the complex. You will be required to sign a Visitor's Log and receive a Visitor's Badge.** Palmetto will have opportunity to attend this conference to discuss with Department staff regulatory concerns involving the disposal of treated wastewater to the Rapid Infiltration Basins (RIBs) permitted under Land Application Discharge Permit ND0068411 (ND Permit). An agreement between Palmetto and the Department will be discussed to achieve compliance with state rules and regulations.

**This Notice is based upon the following findings of the Department:**

1. Palmetto Utilities owns or leases and is responsible for the proper operation and maintenance of the WWTP and the land application system serving the residents and businesses of its designated service areas located in Richland and Kershaw Counties, South Carolina.
2. Department staff issued Land Application Discharge Permit, ND0068411 ("ND Permit"), to Palmetto Utilities to discharge up to 6.0 million gallons per day ("MGD") of treated wastewater from the WWTP to twenty-one (21) Rapid Infiltration Basins ("RIBs") located off Rush Road, Elgin, in Kershaw County. The ND Permit took effect December 1, 2000. Palmetto Utilities is presently discharging approximately 3.5 MGD to the RIBs.
3. The ND Permit expired on September 30, 2010. On March 9, 2010, Palmetto Utilities applied for re-issuance of the ND Permit. The ND Permit has been drafted and forwarded to Palmetto Utilities for review and comment. The requirements and conditions of the previous permit remain in effect pending final disposition of the application.
4. On October 21 and on November 9, 2010, Department staff conducted inspections of Crab Apple Lane and Tower Road in response to a complaint received of water seeping from the ground onto and across Crab Apple Lane. Department staff confirmed the seep was occurring. It apparently became evident following roadway maintenance activity involving grading and ditching. Water samples of the seep were collected on October 21, 2010 and analyzed for bacterial content and nitrate. No bacteria were detected in the seep sample. The

nitrate level in the seep sample was 8.5 milligrams/liter (mg/L). The elevated nitrate is indicative of the seep chemistry being influenced by wastewater.

5. Department staff also issued National Pollutant Discharge Elimination System, Permit SC0043451 ("NPDES Permit"), to Palmetto Utilities, allowing it to discharge up to 6.0 MGD of treated wastewater from the WWTP to the Wateree River in accordance with effluent limitations, monitoring requirements and other conditions set forth therein. The Permit expired on September 30, 2011, without the outfall line to the Wateree River being constructed. On March 16, 2011, Palmetto Utilities applied for re-issuance of the NPDES Permit.
6. Groundwater monitoring is a requirement under the ND Permit, Part III, C. Nine (9) monitoring wells ("MWs") were installed from which groundwater samples were to be collected quarterly for analyses of specific parameters, including nitrate. Groundwater samples from sixteen (16) MWs on site shall be collected semiannually and analyzed for specific parameters, including nitrate.
7. Department letters to Palmetto Utilities and internal memoranda from year 2000 identified an increase in the concentration of N in shallow groundwater proximal of the RIBs.
8. On August 6, 2013, groundwater samples were collected from MW Numbers 2, 3, 5, 6R, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in five (5) of the MWs sampled.
9. On February 18, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in eight (8) of the MWs sampled.
10. On April 1 and April 10, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in one (1) of the MWs sampled.
11. On July 8 and July 16, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in three (3) of the MWs sampled.
12. On July 9, 2014, Department staff conducted a follow-up inspection of the groundwater seepage that continued on Crab Apple Lane. A sample from the groundwater seep was collected. The sample result again reported no bacteria present, but conductivity was elevated at 299.3 umhos/cm with a nitrate concentration of 11 mg/L., which exceeds the



Water Quality Standards for Class GB Ground Waters of 10 mg/L. The elevated conductivity and nitrate are indicative of the seep chemistry being influenced by wastewater.

13. On November 6, 2014, Palmetto Utilities submitted a request for an amendment of the NPDES Permit application to allow for two (2) surface water discharge points; Outfall 001 into the Wateree River North of Highway I-20 Bridge and Outfall 002 into Spears Creek just West of County Line Trail in Richland County.
14. On February 6, 2015, Department staff met with representatives and consultants, serving as agents for Palmetto Utilities. The purpose of the meeting was to discuss Department concerns relating to nitrate concentrations reported above Class GB Groundwater Standards at and in proximity of the Site and the groundwater seepage onto Crab Apple Lane. The status of the ND and NPDES Permits were discussed. Continued long-term operation of the RIBs and re-issuance of the ND Permit has been called into question under consideration of the current Site conditions. Other items discussed included:
  - a) Palmetto Utilities representatives distributed a "Proposed Sampling Protocol" for installation of additional monitoring wells to better evaluate and assess the effects of the RIBs on groundwater and tracking groundwater movement through implementation of a tracer study.
  - b) Permitting of the NPDES outfalls to Spears Creek and the Wateree River and a potential modification of the ND Permit.Department staff discussed entering into this Agreement with Palmetto Utilities to address the concerns and issues contained herein.

From the attached findings, the Department alleges that the Site is not in compliance with the Pollution Control Act and South Carolina Water Classification Standards as follows:

The Site is deemed in noncompliance with South Carolina Water Classification Standards, 25 S.C. Code Ann. Regs. 61-68 H.4 (Supp. 2004), in that the groundwater quality at the Site has not been maintained in accordance with Class GB Standards. Also, the Site does not comply with the Pollution Control Act, S.C. Ann. Code § 48-1-90(A)(1) in that comingled groundwater/treated wastewater is leaving the Site from a seep on Crab Apple Lane.

This Notice is made pursuant to the Pollution Control Act, S.C. Code Ann. §§ 48-1-50 (Supp. 2014) and S.C. Code Ann. § 48-1-330 (2008), which authorize(s) the Department to issue Orders and assess monetary penalties.

April 14, 2015



William R. Krecker  
Enforcement Project Manager  
Water Pollution Control Division  
Bureau of Water



Catherine E. Heigel, Director

*Promoting and protecting the health of the public and the environment*

August 3, 2015

**CERTIFIED MAIL**

91 7199 9991 7031 3713 6979

Mr. Craig Sherwood  
VP – South Carolina Operations  
**Palmetto Utilities, Inc.**  
1710 Woodcreek Farms Road  
Elgin, S.C. 29045

Re: **Consent Agreement 15-032-W**  
Palmetto Utilities/Spears Creek  
Land Application Discharge Permit ND0068411  
Kershaw County

Dear Mr. Sherwood:

Consent Agreement 15-032-W is enclosed. The Agreement was executed on **July 30, 2015**. The requirements to which Palmetto Utilities agreed begin on page 5. The Agreement number should be included on all related correspondence submitted to the Department.

Please direct any questions or comments regarding this document to me at (803) 898-4247. I can also be conveniently reached by email at: [bill.krecker@dhec.sc.gov](mailto:bill.krecker@dhec.sc.gov)

Sincerely,

William R. Krecker, MPH  
Project Manager  
Water Pollution Control Division/Enforcement  
Bureau of Water

Enclosure

cc: Jaime Teraoka, Water Pollution Control Division/Compliance Section  
Michael Traynham, Esq., Office of General Counsel  
Glenn Trofatter, Director, Division of Water Pollution Control/BOW  
Jeff deBessonnet, Director, Division of Water Facilities Permitting/BOW  
Chuck Gorman, Director, Division of Water Monitoring, Assess. & Protection/BOW  
Harry Mathis, Director, Midlands EQC Region Office – Columbia

**THE STATE OF SOUTH CAROLINA  
BEFORE THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**IN RE: PALMETTO UTILITIES, INC./SPEARS CREEK WWTP  
LAND APPLICATION DISCHARGE PERMIT ND0068411  
KERSHAW COUNTY**

**CONSENT AGREEMENT**

**1 5 - 0 3 2 - W**

Palmetto Utilities, Inc. ("Palmetto Utilities") owns or leases and is responsible for the proper operation and maintenance of the Spears Creek Wastewater Treatment Plant ("WWTP") located at 150 Brazell Lane, in Kershaw County, South Carolina and a land application system located near the intersection of Rush Road and Crab Apple Lane ("Site"), in Kershaw County, South Carolina.

This Consent Agreement ("Agreement") is entered into by the South Carolina Department of Health and Environmental Control ("Department") and Palmetto Utilities with respect to the assessment and corrective actions for nitrate and the surface discharge ("seep") of comingled groundwater/WWTP effluent in the vicinity of the Site.

**IN THE INTEREST OF RESOLVING THIS MATTER** without delay, Palmetto Utilities agrees to the entry of this Agreement, but neither agrees nor disagrees with the Findings of Fact or the Conclusions of Law. Therefore, this Agreement shall be deemed an admission of fact and law only as necessary for enforcement of this Agreement by the Department.

**FINDINGS OF FACT**

1. Palmetto Utilities owns or leases and is responsible for the proper operation and maintenance of the WWTP and the land application system serving the residents and businesses of its designated service areas located in Richland and Kershaw Counties, South Carolina.
2. Department staff issued Land Application Discharge Permit, ND0068411 ("ND Permit"), to Palmetto Utilities to discharge up to 6.0 million gallons per day ("MGD") of treated wastewater

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from the WWTP to twenty-one (21) Rapid Infiltration Basins (“RIBs”) located off Rush Road, Elgin, in Kershaw County. The ND Permit took effect December 1, 2000. Palmetto Utilities is presently discharging approximately 3.5 MGD to the RIBs.

3. The ND Permit expired on September 30, 2010. On March 9, 2010, Palmetto Utilities timely applied for re-issuance of the ND Permit. The ND Permit has been drafted and forwarded to Palmetto Utilities for review and comment. The requirements and conditions of the previous permit remain in effect pending final disposition of the application.
4. On October 21 and on November 9, 2010, Department staff conducted inspections of Crab Apple Lane and Tower Road in response to a complaint received of water seeping from the ground onto and across Crab Apple Lane. Department staff confirmed the existence of a seep was occurring. It apparently developed or became evident following roadway maintenance activity involving grading and ditching. Water samples of the seep were collected on October 21, 2010 and analyzed for bacterial content and nitrate. No bacteria were detected in the seep sample. The nitrate level in the seep sample was 8.5 milligrams/liter (mg/L). The elevated nitrate is indicative of the seep chemistry being influenced by wastewater.
5. Department staff also issued National Pollutant Discharge Elimination System, Permit SC0043451 (“NPDES Permit”), to Palmetto Utilities, allowing it to discharge up to 6.0 MGD of treated wastewater from the WWTP to the Wateree River in accordance with effluent limitations, monitoring requirements and other conditions set forth therein. The Permit expired on September 30, 2011, without the outfall line to the Wateree River being constructed. On March 16, 2011, Palmetto Utilities timely applied for re-issuance of the NPDES Permit.
6. Groundwater monitoring is a requirement under the ND Permit, Part III, C. Nine (9) monitoring wells (“MWs”) were installed from which groundwater samples were to be collected quarterly for analyses of specific parameters, including nitrate. Groundwater samples from sixteen (16) MWs on site shall be collected semiannually and analyzed for specific parameters, including

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nitrate.

7. Department letters to Palmetto Utilities and internal memoranda from year 2000 identified an increase in the concentration of nitrate in shallow groundwater proximal of the RIBs.
8. On August 6, 2013, groundwater samples were collected from MW Numbers 2, 3, 5, 6R, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in five (5) of the MWs sampled.
9. On February 18, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in eight (8) of the MWs sampled.
10. On April 1 and April 10, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in one (1) of the MWs sampled.
11. On July 8 and July 16, 2014, groundwater samples were collected from MW Numbers 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, Pm-1, and Pm-2. Nitrate concentrations were reported above the Water Quality Standards for Class GB Ground Waters of 10 mg/l in three (3) of the MWs sampled.
12. On July 9, 2014, Department staff conducted a follow-up inspection of the seep that continued on Crab Apple Lane. A sample from the seep was collected. The sample result again reported no bacteria present, but conductivity was elevated at 299.3 umhos/cm with a nitrate concentration of 11 mg/l., which exceeds the Water Quality Standards for Class GB Ground Waters of 10 mg/l. The elevated conductivity and nitrate are indicative of the seep chemistry being influenced by wastewater.
13. On November 6, 2014, Palmetto Utilities submitted a request for an amendment of the NPDES



Permit application to allow for two (2) surface water discharge points; Outfall 001 into the Wateree River North of Highway I-20 Bridge and Outfall 002 into Spears Creek just West of County Line Trail in Richland County.

14. On February 6, 2015, Department staff met with representatives and consultants, serving as agents for Palmetto Utilities. The purpose of the meeting was to discuss Department concerns relating to nitrate concentrations reported above Class GB Groundwater Standards at and in proximity of the Site and the groundwater seepage onto Crab Apple Lane. The status of the ND and NPDES Permits were discussed. Continued long-term operation of the RIBs and re-issuance of the ND Permit has been called into question under consideration of the current Site conditions. Other items discussed included:
- a) Palmetto Utilities representatives distributed a "Proposed Sampling Protocol" for installation of additional monitoring wells to better evaluate and assess the effects of the RIBs on groundwater and tracking groundwater movement through implementation of a tracer study.
  - b) Permitting of the NPDES outfalls to Spears Creek and the Wateree River and a potential modification of the ND Permit.

Department staff discussed entering into this Agreement with Palmetto Utilities to address the concerns and issues contained herein.

15. On April 29, 2015, Department staff held a compliance conference with representatives, consultants and agents for Palmetto Utilities. Mr. Stan Jones reported on activities engaged by Palmetto Utilities to address Department concerns. Fifty-four (54) acres in the vicinity of the seep were purchased and a redevelopment plan for filling and re-grading this area had been designed. Palmetto Utilities submitted an application for a permit to install a carbon source feed system for the WWTP. These findings and requirements for relief were discussed in conjunction with the issuance of this Agreement.

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## CONCLUSIONS OF LAW

1. The Pollution Control Act, S.C. Code Ann. § 48-1-50 (Supp. 2014), gives the Department the authority to hold hearings, issue Orders and conduct studies and investigations to abate, control and prevent pollution.
2. The Pollution Control Act, S.C. Code Ann. § 48-1-50 (Supp. 2014), states that the Department may encourage voluntary cooperation by persons, or affected groups in restoration and preservation of a reasonable degree of purity of air and water.
3. The South Carolina Water Classifications and Standards, 25 S.C. Code Ann. Regs. 61-68 H.4 (Supp. 2004), states that all groundwaters of the State shall be protected, to the extent possible, to a quality consistent with the use associated with the classes described therein.
4. The South Carolina Water Classifications and Standards, 25 S.C. Code Ann. Regs. 61-68 H.9 (Supp. 2004), was violated in that groundwater quality at the Site has not been maintained in accordance with Class GB standards.

**NOW, THEREFORE, IT IS CONSENTED TO AND AGREED** that Palmetto Utilities shall accomplish the requirements detailed below:

1. Within forty-five (45) days of the effective date of this Agreement, Palmetto Utilities shall submit a groundwater assessment plan ("Assessment Plan") to further assess potential groundwater impact related to the operation of the Site. Groundwater should be assessed both on the Site and off the Site, as needed, to delineate the horizontal and vertical extent of Nitrate or other chemical constituents that originate from the Site and exceed a Class GB groundwater standard. The assessment should include the testing of private drinking water wells, as needed, to characterize groundwater quality proximal to the permitted facility. Department staff will assist with private property access to facilitate the testing of private drinking water wells.

This plan will contain, at a minimum, proposed well locations and construction details; proposed sampling and analytical protocols; an as-built drawing of the facility showing all

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existing structures, roads, underground utilities, monitoring wells, other pertinent site structures; a proposed schedule for work; and, other appropriate information. Palmetto Utilities will provide the Department test results from private wells within 24 hours of their receipt by Palmetto Utilities. Thereafter, the Department and Palmetto Utilities can discuss the test results prior to the Department undertaking any communication with the owner of the well which the Department may deem warranted. Department staff will notify Palmetto Utilities within 24 hours of the Department's receipt of any independent test results from private wells. Thereafter, the Department and Palmetto Utilities can discuss the independent test results prior to the Department undertaking any communication with the owner of the well which the Department may deem warranted.

2. Palmetto Utilities shall continue the groundwater monitoring program per its ND Permit.
3. Upon approval by the Department, Palmetto Utilities shall implement the Assessment Plan and monitoring program in accordance with the schedule, as approved.
4. Within thirty days (30) days of the completion of the Site Assessment activities, Palmetto Utilities shall submit to the Department a Final Assessment Report that is to include a complete delineation of the groundwater impact. At a minimum this report should contain analytical results (summary tables, lab sheets, etc.), geologist logs, procedures/protocols used, interpretation of data, isoconcentration maps, cross sections, potentiometric maps, etc. All groundwater analyses shall be conducted by a laboratory certified by the State of South Carolina and all reports shall be stamped by a South Carolina certified professional geologist or professional engineer.
5. Within thirty (30) days of the Departments approval of the Final Assessment Report and confirmation that the extent of groundwater impact has been delineated, Palmetto Utilities shall submit a Corrective Action Plan (CAP) to address the following: 1) potential adverse impacts to drinking water supplies in the area that may have been or may in the future be related to





operations at the Site, shall be evaluated and Corrective Actions (CA) considered and taken as necessary to prevent or eliminate such adverse impacts to drinking water supplies; 2) options for significantly reducing or eliminating the nitrate loading at the Site; and 3) the rate of application of wastewater effluent that would be protective of groundwater quality along with a quantitative demonstration that all groundwater flow directions from the RIBs are fully understood and all flow is in a direction and at a rate that prevents fugitive offsite surface discharges or other adverse impacts including, but not limited to, impacts to nearby drinking water supplies. The CAP shall include a schedule for implementation of the CA proposed. Any appropriate permits for the implementation of the CAP are to be submitted concurrently with the CAP or are addressed by the implementation schedule. Upon Department approval of the CAP, the schedule will become an enforceable part of this Agreement.

6. The CAP is to include sufficient details for monitoring to determine the effectiveness of the CA system during implementation, to verify achievement of the CA goals subsequent to implementation and for submission of routine monitoring reports regarding this data. This monitoring is to include development and submission of a comprehensive CA system evaluation report at least every year to ensure that the system is functioning effectively and efficiently. This comprehensive review should include an evaluation of the containment and reduction of any groundwater impact, its source areas and any impacted soils, including any appropriate maps, diagrams etc.; a review of improvements or alternative technologies that may be beneficial to a more rapid correction of the problem or in meeting CA goals in a cost effective manner; any appropriate recommendations for changes including for monitoring parameters/frequency; and an implementation schedule if applicable.
7. Upon approval by the Department, Palmetto Utilities shall implement the CAP and monitoring program in accordance with the approved schedule.

CA

8. By mutual agreement, the sampling locations and sampling frequency in this Agreement can be modified in writing after an adequate reference database has been established.

**PURSUANT TO THIS AGREEMENT**, all requirements to be submitted to the Department shall be addressed as follows:

Bureau of Water -Water Pollution Control Division/Enforcement  
S.C. Department of Health and Environmental Control  
2600 Bull Street  
Columbia, S.C. 29201

**IT IS FURTHER AGREED** that this Agreement does not release Palmetto Utilities from any future liability as to other types of contaminants not addressed by this Agreement, which may be discovered to be present in the aquifers beneath this Site. This Agreement does not release Palmetto Utilities from liability pertaining to any future discharge or future introduction of additional contaminants onto the surface or into the subsurface environment.

**IT IS FURTHER AGREED** that this Agreement may be terminated after petition to the Department upon mutual consent after the corrective action goals, as established in the CAP, are accomplished.

**IT IS FURTHER UNDERSTOOD AND AGREED** that for the purposes of this Agreement, the parties concur that the term "Agreement" shall have the same meaning as the term "Order" as provided in Pollution Control Act, S.C. Code Ann. § 48-1-50(3)(Supp. 2014), and that failure to comply with any provision of this Agreement shall be considered the same as a violation of a final determination of the Department and shall constitute grounds for further enforcement action pursuant to the Pollution Control Act, S.C. Code Ann. § 48-1-330 (2008), to include, but not limited to, the assessment of civil penalties.

**IT IS FURTHER AGREED** that this Consent Agreement governs only the civil liability to the Department for civil sanctions arising from the matters set forth herein and constitutes the entire agreement between the Department and Palmetto Utilities, Inc., with respect to the resolution and


settlement of these civil matters. The parties are not relying upon any representations, promises, understandings or agreements except as expressly set forth within this Document.

**THE PARTIES UNDERSTAND** that the “execution date” of the Order is the date the Order is signed by the Director of Environmental Affairs.


**[Signature Page Follows]**

*G.*

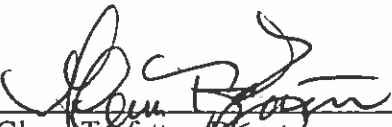
FOR THE SOUTH CAROLINA DEPARTMENT  
OF HEALTH AND ENVIRONMENTAL CONTROL

*for*   
Elizabeth A. Dieck  
Director of Environmental Affairs

Date: 7/30/2015

  
David E. Wilson, Jr., P.E.,  
Bureau Chief  
Bureau of Water

Date: 7-24-15

  
Glenn Profatter, Director  
Water Pollution Control Division  
Bureau of Water

Date: July 30 2015


Reviewed by:

  
DHEC Office of Legal Counsel  
Attorney

Date: July 24 2015

WE CONSENT:

PALMETTO UTILITIES, INC.

  
Mr. Craig Sherwood  
VP – South Carolina Operations

Date: 7/17/15